IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 126 of 2006
In
COMPANY APPLICATION No. 267 of 2006
with
COMPANY PETITION No. 127 of 2006
In
COMPANY APPLICATION No. 268 of 2006

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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WRITERS AND PUBLISHERS LTD. - Petitioner(s)
Versus
. - Respondent(s)

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Appearance :
MRS SWATI SOPARKAR for Petitioner(s) : 1,
MR PURVISH J MALKAN for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/10/2006

ORAL JUDGMENT

These are the petitions filed by the petitioner companies for sanction of a scheme of arrangement in the nature of De-merger and Transfer of Publishing Business

of Writers and Publishers Limited (the De-merger company) to D.B. Corp Limited (the Resulting Company) under section 391 read with section 394 of the Companies Act, 1956.

2. Heard Ms Swati Soparkar, learned advocate appearing for the respective petitioner companies. It is submitted that both the petitioners companies belong to the same group of management. Both the companies are closely held, unlisted public limited companies promoted by Bhaskar group. The de-merged company is engaged in printing and publishing of Hindi daily newspaper viz. Dainik Bhaskar and Gujarati newspaper viz. Divya Bhaskar. The petitioner company is also engaged in job work and printing business. The Resulting Company is at present not engaged in any commercial activity. Ms Soparkar has submitted that the details about the commercial activities and the financial status of both the companies are given in the respective petitions and she relies upon the same. It is submitted that the de-merger is proposed to achieve the sustained growth and development of both the publishing and printing business activities as independent entities. She has also relied upon the details of the advantages that would flow by virtue of the proposed arrangement

between the aforesaid companies, given in the petitions.

3. Vide order dated 13th June 2006 passed in Company Application No.266 of 2006, the meeting of the equity and preferential shareholders of the de-merged company were dispensed with in view of the written consensus of all of them being produced on record. A separate meeting of the secured creditors and unsecured creditors of the de-merged company were directed to be convened. It is submitted that the secured and unsecured creditors of the de-merged company unanimously approved the claim in the meeting convened on 18th April 2006 for the purpose as per the direction issued vide order dated 13th June 2006. Necessary particulars are given in para 15 and 16 with regard to the meeting of the secured creditors as well as the unsecured creditors of the de-merged company in Company Petition No.126 of 2006.

4. Vide order dated 13th June, 2006 passed in Company Application No.268 of 2006, the meeting of the equity shareholders of the Resulting Company were dispensed with in view of the consent letters from all the shareholders approving the scheme being put on record. She has also further submitted that the Extra Ordinary General Meeting

of the equity shareholders of the Resulting Company was to be convened and held for the purpose of passing a subject resolution for approving the reduction of the equity share capital of the petitioner company of Company Petition No.127 of 2006 in terms of sections 100 to 103 of the Companies Act, 1956 as provided in the scheme of arrangement and the notices of the Extra Ordinary General Meeting were sent to all the equity shareholders of the Company and on 10th July 2006, the Extra Ordinary General Meeting of the equity shareholders of the Resulting Company was duly convened at the registered office and at the Extra Ordinary General Meeting held, the equity shareholders passed the resolution with requisite majority approving the reduction of equity share capital of the Resulting Company. The resolution is reproduced on page 18 of the Company Petition No.127 of 2006. It is also further submitted that vide order dated 13th June 2006, in fact this Court was pleased to dispense with the procedure prescribed in section 101(2) and Rule 48 to 65 of the Company (Court) Rules, 1959, as the reduction of the capital of the Resulting Company was an integral part of the scheme and the proposed reduction does not involve either a diminution of liability in respect of unpaid share capital or payment of paid up share capital.

5. After the petitions were admitted, the same were duly advertised in the newspapers [Indian Express (English) and Divya Bhaskar (Gujarati), both Ahmedabad editions] and the publication in the Government Gazette was dispensed with as directed in the order dated 31-7-2006. It is submitted that no one has come forward with any objection to the said petitions even after the publication.

6. Notices of the petitions have been served upon the Central Government and Shri PJ Malkan, learned Addl. Central Government Standing Counsel appears for the Central Government. Shri Malkan has placed on record the affidavit dated 11th September 2006 filed by the Deputy Registrar of Companies along with the letter from the Regional Director, by which the Regional Director has decided not to oppose the petitions.

7. Heard Ms Swati Soparkar, learned advocate appearing on behalf of the petitioner companies.

8. Having gone through the petitions and submissions, considering the proposed scheme of De-merger, I am

satisfied with the proposed De-merger, which is in the interest of the companies, their members and creditors. Under the circumstances, prayers in terms of para 22 (a) in Company Application No.126 of 2006 and in terms of para 18(a) and (b) along with minutes as per para 13 of the petition, are hereby granted.

9. Both the petitions are disposed off accordingly. So far as the cost to be paid to the learned Addl. Central Government Standing Counsel is concerned, the same is quantified at Rs.3500/- per petition and the same may be paid to Shri Malkan, learned Asst. Solicitor General of India by the respective petitioners.

(M.R.SHAH,J.)

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